

UNITED STATE DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

PLAINTIFF,

v.

ANDREAS BADIAN, et al.,

DEFENDANTS.

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: 06-CV-2621 (LTS)  
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FIRST DECLARATION OF KENNETH J. GUIDO AUTHENTICATING DOCUMENTS  
FILED IN OPPOSITION TO DEFENDANT'S MOTION *IN LIMINE* TO PRECLUDE ANY  
PARTY FROM USING OR REFERENCING THE REFCO AUDIO RECORDINGS AND  
TRANSCRIPTS OR THEIR CONTENTS AT TRIAL

KENNETH J. GUIDO hereby declares under penalty of perjury, as follows:

1. I am counsel for the Securities and Exchange Commission ("Commission" or "SEC") in this action.
2. I submit this declaration in connection with the Commission's Opposition to Badian's Motion to Exclude Audio Recordings and Transcripts.
3. Lodged herewith are the attachments referred to in the Commission's Opposition to Badian's Motion to Exclude Audio Recordings and Transcripts.
4. Attachment 1 is a true and correct copy of a schedule of clips, "Chronological List of Recordings ("Clips") Constituting Commission Trial Exhibits 32, 40, 85, 92, 95, 102, and 150."
5. Attachment 2 is a true and correct copy of a schedule of clips, "Commission Exhibits 32, 40, 85, 92, 95, 102, and 150."

6. Attachment 3 is a true and correct copy of excerpts from the Digilio Deposition dated May 28, 2009.
7. Attachment 4 is a true and correct copy of excerpts from the Aboff Deposition dated June 2, 2009.
8. Attachment 5 is a true and correct copy of excerpts from the Graham Deposition dated June 10, 2009.
9. Attachment 6 is a true and correct copy of excerpts from the Drillman Deposition dated June 11, 2009.
10. Attachment 7 is a true and correct copy of excerpts from the Spinner Deposition dated June 2, 2009.
11. Attachment 8 is a true and correct copy of excerpts from the Britton Deposition dated June 24, 2009.
12. Attachment 9 is a true and correct copy of excerpts from the Badian Deposition dated July 22, 2009.
13. Attachment 10 is a true and correct hard copy of excerpts from the February 21, 2001 Transcripts of Recordings produced to the SEC by Refco.
14. Attachment 11 is a true and correct hard copy of excerpts from the March 1, 2001 Transcripts of Recordings produced to the SEC by Refco.
15. Attachment 12 is a true and correct hard copy of excerpts from the March 2, 2001 Transcripts of Recordings produced to the SEC by Refco.
16. Attachment 13 is a true and correct hard copy of excerpts from the March 5, 2001 Transcripts of Recordings produced to the SEC by Refco.

17. Attachment 14 is a true and correct hard copy of excerpts from the March 6, 2001 Transcripts of Recordings produced to the SEC by Refco.

18. Attachment 15 is a true and correct hard copy of excerpts from the March 8, 2001 Transcripts of Recordings produced to the SEC by Refco.

19. Attachment 16 is a true and correct hard copy of excerpts from the March 12, 2001 Transcripts of Recordings produced to the SEC by Refco.

20. Attachment 17 is a true and correct hard copy of excerpts from the March 14, 2001 Transcripts of Recordings produced to the SEC by Refco.

21. Attachment 18 is a true and correct hard copy of excerpts from the March 15, 2001 Transcripts of Recordings produced to the SEC by Refco.

22. Attachment 19 is a true and correct hard copy of excerpts from the March 16, 2001 Transcripts of Recordings produced to the SEC by Refco.

23. Attachment 20 is a true and correct hard copy of excerpts from the March 19, 2001 Transcripts of Recordings produced to the SEC by Refco.

24. Attachment 21 is a true and correct hard copy of excerpts from the March 20, 2001 Transcripts of Recordings produced to the SEC by Refco.

25. Attachment 22 is a true and correct hard copy of excerpts from the March 21, 2001 Transcripts of Recordings produced to the SEC by Refco.

26. Attachment 23 is a true and correct hard copy of excerpts from the March 22, 2001 Transcripts of Recordings produced to the SEC by Refco.

27. Attachment 24 is a true and correct hard copy of excerpts from the March 23, 2001 Transcripts of Recordings produced to the SEC by Refco.

28. Attachment 25 is a true and correct hard copy of excerpts from the March 26, 2001 Transcripts of Recordings produced to the SEC by Refco.

29. Attachment 26 is a true and correct hard copy of excerpts from the March 27, 2001 Transcripts of Recordings produced to the SEC by Refco.

30. Attachment 27 is a true and correct hard copy of excerpts from the March 28, 2001 Transcripts of Recordings produced to the SEC by Refco.

31. Attachment 28 is a true and correct hard copy of excerpts from the April 2, 2001 Transcripts of Recordings produced to the SEC by Refco.

32. Attachment 29 is a true and correct hard copy of excerpts from the April 3, 2001 Transcripts of Recordings produced to the SEC by Refco.

33. Attachment 30 is a true and correct hard copy of excerpts from the April 4, 2001 Transcripts of Recordings produced to the SEC by Refco.

34. Attachment 31 is a true and correct hard copy of excerpts from the April 5, 2001 Transcripts of Recordings produced to the SEC by Refco.

35. Attachment 32 is a true and correct hard copy of excerpts from the April 12, 2001 Transcripts of Recordings produced to the SEC by Refco.

36. Attachment 33 is a true and correct hard copy of excerpts from the April 16, 2001 Transcripts of Recordings produced to the SEC by Refco.

37. Attachment 34 is a true and correct hard copy of excerpts from the April 18, 2001 Transcripts of Recordings produced to the SEC by Refco.

38. Attachment 35 is a true and correct hard copy of excerpts from the April 19, 2001 Transcripts of Recordings produced to the SEC by Refco.

39. Attachment 36 is a true and correct hard copy of excerpts from the April 20, 2001  
Transcripts of Recordings produced to the SEC by Refco.

Pursuant to 28 U.S. C. § 1746, I declare under penalty of perjury that the foregoing is true  
and correct.

Dated: Washington, DC.  
December 6, 2010

/s/ Kenneth J. Guido  
Kenneth J. Guido (KG 3470)  
Kyle DeYoung (KD 2181)  
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Attorneys for Securities and Exchange  
Commission

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 6, 2010, I electronically filed the foregoing document captioned “First Declaration Of Kenneth J. Guido Authenticating Documents Filed In Opposition To Defendant’s Motion *In Limine* To Preclude Any Party From Using Or Referencing The Refco Audio Recordings And Transcripts Or Their Contents At Trial,” and the attachments thereto, with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of Record.

I HEREBY ALSO CERTIFY that on December 6, 2010, I also served the foregoing documents on Pro Se Defendant Jeffry “Danny” Graham by overnight UPS mail at the address listed below:

Jeffrey “Danny” Graham  
150 East 85<sup>th</sup> Street  
Apartment 5F  
New York, NY 10028  
(917) 847-2316  
Lizzard [1948@verizon.com](mailto:1948@verizon.com)

December 6, 2010

/s/ Kenneth J. Guido  
Kenneth J. Guido  
Counsel for Plaintiff